TESTIMONY OF
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Introduction

Thank you, Madam Chairwoman and members of the Subcommittee for allowing me and Gary Gulezian, the Director of the Great Lakes National Program Office (GLNPO) to discuss the Great Lakes Legacy Act, the progress we have made since its enactment, and the challenges and opportunities ahead as we consider its reauthorization .

During this Administration, EPA has placed a high priority on restoring and protecting the Great Lakes and, in particular, using innovation and collaboration to remediate contaminated sediment sites.

The Great Lakes Legacy Act of 2002 has become a very important new tool in advancing the cleanup of contaminated sediment sites throughout the Great Lakes as part of our commitments under the Great Lakes Water Quality Agreement, a U.S.-Canada agreement designed to restore and maintain the Great Lakes Basin Ecosystem. Since 2004 we have remediated over 800,000 cubic yards of contaminated sediment at a cost of almost $97 million. This translates into the removal of over 1.5 million pounds of contaminants from the environment, thereby reducing risk to aquatic life and human health. We have

removed contaminants such as polychlorinated biphenyls (PCBs), mercury, various heavy metals, and polycyclic aromatic hydrocarbons (PAHs).

As you know, Great Lakes Legacy Act remediation projects require a minimum of 35 percent non-federal match. To date, we have expended approximately $53 million of Great Lakes Legacy Act funds and have in return leveraged approximately $44 million of non-federal dollars from our project partners. This leveraging has only been possible through our investing time and resources toward the development of successful partnerships.

Background

The Great Lakes are the largest surface freshwater system on Earth, containing about 85 percent of North America's surface fresh water and about 20 percent of the world's supply. Industrialization and development have had a significant negative impact on the Great Lakes ecosystem. The Great Lakes are particularly vulnerable to contamination because the average outflow rate is low relative to the volume of the Lakes; therefore, contaminants remain in the system for many years. As a result, many pollutants historically discharged into the water settle into the sediments at the bottom of the rivers and harbors that flow into the Lakes. These contaminants have the potential to cause harm to humans, aquatic organisms, and wildlife, and, as a result, there are advisories against consuming Great Lakes fish. Contaminated sediment is the greatest source of persistent toxic substances to the tributaries of the Great Lakes basin, and represents a significant pathway of human exposure to these contaminants.

The Great Lakes Water Quality Agreement identified specific problem areas in the Great Lakes basin. These areas are called “Areas of Concern” (AOCs), and 30 of the 40 AOCs are located wholly or partially on the U.S. side of the Great Lakes (the rest being in Canadian Waters). One of the primary impediments to “restoring the beneficial uses in the AOCs,” as identified in the Great Lakes Water Quality Agreement with Canada, is the presence of contaminated sediments in these areas.

As of our last reporting to Congress, thanks to a variety of programs, approximately 4.5 million cubic yards of contaminated sediments have been remediated from the U.S. Great Lakes, and EPA expects reporting through 2008 to show an additional 1 million cubic yards remediated.

To tackle this problem of contamination, and to take a key step toward recovery and the delisting of these AOCs, Congress passed and the President signed the Great Lakes Legacy Act in 2002. The Act provides funding to take necessary steps to clean up contaminated sediment in “AOCs located wholly or partially in the United States,” and designates specific funding for public outreach and research. The U.S. Environmental Protection Agency’s Great Lakes National Program Office was designated by the Great Lakes Legacy Act to implement the program.

The Great Lakes Legacy Act is a unique program that provides for sediment remediation in a timely manner when no other program is available and there is not clear responsibility for the contamination. Two features of the Legacy Act differentiate it from other regulatory/enforcement programs: (a) it is EPA’s only

authority expressly directed at cleaning up contaminated sediments; and (b) it is directed at the endpoint of eliminating beneficial use impairments in Great Lakes AOCs. A beneficial use impairment is a change in the chemical, physical, or biological integrity of a water body as defined by the Great Lakes Water Quality Agreement. Programs such as Superfund have differing endpoints, and may not eliminate beneficial use impairments in Great Lakes AOCs.

Accomplishments to Date

We have seen substantial progress in removing contaminants from various areas around the Great Lakes since EPA received its first appropriation under the Great Lakes Legacy Act in 2004. Since 2004 we have remediated over 800,000 cubic yards of contaminated sediment at a cost of almost $97 million. To date, we have expended approximately $53 million of Great Lakes Legacy Act funds and have in return leveraged approximately $44 million of non-federal dollars. This has allowed us to remove over 1.5 million pounds of contaminants from the environment, thereby reducing risk to aquatic life and human health. We have removed contaminants such as PCBs, mercury, various heavy metals, and PAHs.

To date, the sediment remediation projects completed are:

Black Lagoon, Trenton, MI, Detroit River AOC

Newton Creek/Hog Island Inlet, Superior, WI, St. Louis River AOC

Ruddiman Creek & Pond, Muskegon, MI, Muskegon Lake AOC

St. Marys River/Tannery Bay, Sault Ste. Marie, MI, St. Mary's River AOC

Ashtabula River, Ashtabula, OH, Ashtabula River AOC

I briefly discuss each of these projects below.

Black Lagoon

The remediation of the Black Lagoon was completed in November 2005. This project removed 116,000 cubic yards of contaminated sediments. The non-federal sponsor for this project was the Michigan Department of Environmental Quality. The total cost of this project was $9.3 million. As a result of this sediment clean-up project, the City of Trenton, MI has moved forward with the economic/recreational revitalization of the Lagoon. The City received a $151,000 grant for shoreline habitat restoration (from NRCS) and in June 2007 received a $582,000 boating infrastructure grant (from USFWS) for marina construction. On June 18, 2007, the City of Trenton celebrated the restoration and revitalization of the Black Lagoon in a ceremony renaming the lagoon as "Ellias Cove" in honor of the family who donated the land presently known as Meyer Ellias Park. The neighbors to the south of the park have reported they are swimming off their docks again and the lagoon is now a favored fishing spot for the local boaters.

Newton Creek/Hog Island Inlet

The remediation of Newton Creek/Hog Island Inlet was also completed in November 2005. This project removed 46,000 cubic yards of contaminated sediments. The non-federal sponsor for this project was the Wisconsin Department of Natural Resources. The total cost of this project was $5.7 million.

As a follow-up to the sediment remediation project, the *Hog Island and Newton Creek Ecological Restoration Master Plan* was developed by the community, with financial support from EPA. The plan provides a blueprint to restore the wetland, aquatic, shoreline and riparian habitats in this area of the St. Louis River AOC. The actions highlighted in the plan are excellent opportunities to provide nesting habitat for migrating birds, nature trails and recreational opportunities including fishing and canoeing.

Ruddiman Creek & Pond

The remediation of Ruddiman Creek & Pond was completed in May 2006. This project removed 90,000 cubic yards of contaminated sediments. The non-federal sponsor for this project was the Michigan Department of Environmental Quality. The total cost of this project was $14.1 million. Since the sediment clean-up, salmon have been seen swimming up the creek. This had not been observed for many years prior to the clean-up. To further ensure an improved habitat and as a follow-up to the sediment remediation project, a *Muskegon Lake Ecological Restoration Master Plan* was developed by the community. The plan provides a blueprint to restore the wetland, aquatic, shoreline and riparian habitats in the Muskegon Lake AOC.

St. Mary's River/Tannery Bay

The remediation of St. Mary's River/Tannery Bay was completed in August 2007. This project removed 40,000 cubic yards of contaminated sediments. The non-federal sponsors for this project were the Phelps Dodge Corporation (acquired by Freeport-McMoRan Copper & Gold Inc. in March 2007) and the Michigan

Department of Environmental Quality. The total cost of this project was about $8 million with approximately $4.8 million coming from the Great Lakes Legacy Act.

Ashtabula River

The remediation of the Ashtabula River was completed in November 2007. This project removed 500,000 cubic yards of contaminated sediments. The non-federal sponsor for this project was the Ashtabula City Port Authority with contributions from the Ohio Environmental Protection Agency and the Ashtabula River Cooperation Group II. The total cost of this project is estimated to be around $60 million. We are working closely with the U.S. Army Corps of Engineers, which is currently dredging the contaminated navigation channel of the river, immediately downstream of the Legacy Act project area. Together, these two efforts will remove the bulk of the contaminated sediments in this AOC.

Future Projects

Based on the successes to date, we are committed to continuing to remediate contaminated sediments from the Great Lakes. We are currently evaluating nine projects that have the potential to lead to future remediation projects. These projects are in various stages of development and we are actively working with non-federal sponsors to move these projects along and ultimately remediate even more of the remaining contaminated sediments in the Great Lakes. Furthermore, we anticipate releasing additional requests for projects which will result in more remediation efforts.

Challenges

As you know, the Great Lakes Legacy Act's multi-million dollar remediation projects are extremely complex and, as such, present many challenges. From the beginning, we have looked for ways to streamline and improve the program, both within EPA and in coordination with our partners. However, any program with this many technical complexities and interested stakeholders will continue to face challenges. I would like to share several of these challenges with the Subcommittee.

For example, we must coordinate with regulatory and enforcement programs before undertaking any remediation projects under the Great Lakes Legacy Act. This is necessary to determine if there is a responsible entity for the contamination and if the remediation will instead take place under another authority (e.g., Superfund). This also allows us to work collectively within the EPA, as well as with other agencies, to maximize resources for remediating contaminated sediments in the Great Lakes.

Another challenge, but absolute necessity, is to obtain the non-federal cost share which can be substantial, given the total project costs. To date, states have typically played a key role, both in terms of project funding but also project management, permitting and monitoring. This critical role must continue if we are to maintain or accelerate the rate of progress. Local and private industry investments are unlikely to be sufficient to make full use of federal funding; state bond funds, such as Michigan's Clean Michigan Initiative will be a key to future success.

Further, having the necessary technical information to move a project toward remediation is also challenging. In some cases, the projects are proposed to us with a substantial amount of information that outlines the scope of the problem, and minimal work is needed to proceed to remediation. However, in other cases, less is known, which requires additional work to be done prior to commencing with any remediation activities. This information is crucial to developing solid cost estimates and an engineering design that will accomplish the desired environmental objectives.

Finally, enlisting community support is an important component of every project. It can take substantial time to educate the public and establish solid and sustainable local support for the project.

Legislative Proposals

We understand Members in the House are considering the introduction of a reauthorization bill and that Senators Levin and Voinovich and many of their colleagues just introduced a bill (S 2994) on May 8th.

We look forward to reviewing the legislation and working with the Congress to provide the Administration's views on the elements of the reauthorization necessary to gain Administration support as well as any technical assistance that may be appropriate.

Conclusion

As you know, because of the federal funding provided through the Great Lakes Legacy Act, we have seen substantial success in removing contaminants from

various areas around the Great Lakes. The Great Lakes Legacy Act has stimulated partnerships, including an investment of approximately $44 million from sources outside of the Federal Government. As new projects begin, this number will continue to increase.

Prior to the Great Lakes Legacy Act funding remediation, many communities had tried unsuccessfully for a decade or more to find a way to solve their environmental problems. The Legacy Act is truly meeting an important local and regional need. Finally, as we conduct projects to restore "beneficial uses" in these Areas of Concern by removing toxic stressors, we are also working with other Federal programs to identify opportunities to restore critical habitats that improve ecological conditions. We refer to this as "Remediation to Restoration," or R2R. Together, we seek to continue making improvements in the Great Lakes ecosystem, by completing tangible, on-the-ground actions.

Again, thank you for the opportunity to testify. Mr. Gulezian and I would be pleased to answer any questions you might have.